Draft Rationale for Forest Roads:

NOAA/EPA's Proposed Findings document from December 2013 applauded the Oregon Board of Forestry for adopting Additional BMPs in 2003 addressing more restrictive use of roads during wet weather periods and for requiring an increase in the number of cross-drains needed, amongst other changes. The State based these changes on a number of studies. One study was a two-year, Oregon Department of Forestry monitoring study which examined the efficacy of current wet weather use requirements and determined (through the use of monitoring data) that changes to their BMPs were necessary to protect water quality.

However, NOAA/EPA noted in the December 2013 document, that we believe a significant portion of the road network (defined as active, inactive, and abandoned roads) was still delivering sediment into surface waters. Furthermore, NOAA and EPA stated that the new drainage BMPs adopted by the state in 2003 applied only to new road construction and reconstruction only and that the new rule changes did not sufficiently address water quality impacts from 1) legacy roads (defined by EPA as those parts of the forest road network which are not meeting state standards) and , 2) other portions of the road network that are impacting water quality but are not being constructed/re-constructed. And are thus not covered by the new BMPs.

We noted that the state does have a voluntary program – known as the "Oregon Plan for Salmon and Watersheds" (Oregon Plan) – which addresses roads not covered by the 2003 rule changes, but that the state has not adequately documented how the program satisfies the additional management measures for forest roads required by NOAA and EPA. In short, the agencies found that the state had not provided sufficient data documenting the effectiveness of their voluntary program.

The agencies referenced Oregon's proposed Implementation Ready TMDL for the Mid-Coast Basin as showing a promising strategy for inventorying and assessing roads and developing a reasonable timeline for fixing road segments having impacts to water quality. This approach would have included tracking and reporting requirements, an implementation strategy which would have addressed higher risk roads, and milestone-based targets to ensure progress.

In addition, the state had noted plans to establish a roads survey program by 2014 and alluded to an Interagency Agreement it was planning to enter with the US Forest Service to update its geographic information system data on its road networks, but little additional information about these prospective efforts was provided.

As part of the public comments generated by our December 2013 proposed findings, NOAA and EPA received comments specific to forest road concerns from approximately twenty individuals and interest groups, as well as a submittal from the State of Oregon. An overwhelming number of comments received concurred with NOAA and EPA's proposal to disapprove Oregon's program based at least in

part on the shortcomings found in the states' forest roads program. Comments from the state and industry contend that Oregon's program conforms with EPA's 6217 guidance and that EPA and NOAA should approve the states' program.

Comments that supported EPA's contention that the states' forest road program is in adequate to protect water quality cited many studies lining the presence of forest roads to impacts on surface waters and aquatic habitat by increasing sediment delivery and turbidity. The cumulative impacts of roads are especially damaging according to many of these commenters. There was also a sentiment that Oregon's forest practices rules impose generic BMPs and do not use pertinent water quality data to drive road management decisions. An important point was made that Oregon's road location rule does not require operators to *avoid* water quality impacts, it only requires them to *minimize risk*. Finally, a number of comments focused on the role of legacy rods, claiming that most forest roads in Oregon's State Forests were constructed prior to 1971 and that these older roads were often intentionally designed to discharge stormwater directly into streams, using ditches, channels, and culverts to move stormwater off of the road and into the existing stream network. Consequently, a significant amount of the road network in most state forests remains hydrologically connected to a stream network.

Comments from the state, industry and some individuals argued that Oregon's forest roads program is a success and that it has shown the ability to tighten BMP requirements through rulemaking when there is evidence of shortcomings. These comments point out that the state has a voluntary program developed under the Oregon Plan which as spurred forest landowners to implement measures to improve water quality by identifying risks and prioritizing roads for remediation. Finally, these commenters noted that the state plans to enter into a cooperative agreement with the US Forest Service to update its statewide geographic information system in order to randomly evaluate current and potential roads-related issues.

In conclusion, NOAA and EPA find that a compelling case has not been made regarding the adequacy of Oregon's forest road program, especially as it relates to forest roads. While the state has a voluntary program to address legacy road issues, it is neither comprehensive nor is it designed to monitor and track progress toward rehabilitating those roads having the most serious impacts on water quality. The state is moving toward such a program only conceptually and until information describing the design and implementation of such a legacy road program is provided to the agencies, NOAA and EPA feel strongly that this element of Oregon's program is not sufficient.